

**Board of Appeals**

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting MinutesFAIRHAVEN TOWN CLERK  
RCUD 2023 SEP 26 PM2:11**I. ADMINISTRATIVE BUSINESS****1. Quorum/Attendance**

Peter DeTerra opened the June 6, 2023 meeting at 6:00 PM and read the protocol for Zoom meetings and Open Public Meeting Law.

Peter DeTerra advised that the meeting was being conducted in-person and remotely, consistent with Chapter 22 of the Acts of 2022. The legislation suspends the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location.

For this meeting, the Zoning Board of Appeals convened in-person, as well as by telephone and video conference via Zoom as posted on the Town's website identifying how the public may join. The meeting was recorded and will be televised at a later date; some attendees participated by phone and video conference and used chat on Zoom.

**Quorum/Attendance:** Peter DeTerra, Kenneth Kendall, Ruy daSilva, Daryl Manchester, and Patrick Carr

**Zoom:** Peg Cook and Jamie DeSousa

**Absent:** Alberto Silva and Nicholas Sylvia

**Building Commissioner:** Randy Bassett

After calling attendance, Peter DeTerra then outlined the procedures for the public hearings and all processes required upon acceptance of the applications.

**2. Acceptance of the May 2, 2023 meeting minutes**

Kenneth Kendall made a motion to accept the minutes of May 2, 2023, and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote by Jamie DeSousa, Peg Cook, Daryl Manchester, Ruy daSilva, Kenneth Kendall, Patrick Carr (6-0).

**II. PUBLIC HEARINGS:**

- 1. REF#: ZBA-022-023: 42 Bellevue Street, Map 24, Lots 234-237 & 41.** Applicant & Owner: Allen Days, Jr. Applicant seeks a variance from Fairhaven Zoning Bylaw 198-17 (D), which states not more than one single-family, semidetached, or two-family dwelling shall be erected on a lot, in order to convert a 36'x24'x10' pool house into a single-family dwelling. — *Continued from August 2, 2022*

Mr. DeTerra told the board that the applicant, Mr. Allen Days Jr., had put forth a request to have this application withdrawn without prejudice.

Kenneth Kendall made a motion to withdraw the application for 42 Bellevue Street Map 24, Lots 234-237 & 41 and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote by Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Jamie DeSousa (5-0).

2. **REF#: ZBA-023-007: 148 Dogwood Street, Map 43A, Lots 153-155.** Applicant and owner: Nancy Santoro. Applicant seeks (1) a Special Permit to construct a 30 ft. x 25 ft. attached garage with a living space above, pursuant to Fairhaven Zoning Bylaw 198-15 Use Regulations and (2) a 5 ft. Variance for the garage to be located 15 ft. from the side property line vs. the 20 ft. minimum requirement, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule. — *Continued from March 7, 2023*

After inviting Ms. Nancy Santoro to the podium and reviewing the application, Mr. DeTerra read a letter from the Board of Health stating that they would deny her request for a living space on the second floor of the garage. Ms. Santoro stated that while she would forego having water and sewer connected to the garage, she still wanted space above the garage and Mr. DeTerra explained that it could not be a living space.

After requesting commentary from the public, Ms. Lianne Hodson spoke against the petition, voicing her concerns that there would still be a living space created on the second floor of the garage, that the property of 148 Dogwood Street had not be properly surveyed, and that the proposed garage was fairly large.

Ms. Grace Barnes requested further clarification on the exact scope of the project regarding the planned additions.

Mr. Carr inquired if the Building Commissioner, Mr. Randy Bassett, had received the updated plans he requested of Ms. Santoro at the May 2, 2023, meeting and Mr. Bassett answered that he had not. He and Mr. DeTerra then explained the basic plans received and the process to Ms. Barnes. As more detailed plans had been requested at the previous meeting, the board discussed continuing the hearing until they received more detailed plans from the application.

Patrick Carr made a motion to continue the hearing for 148 Dogwood Street, Map 43A, Lots 153-155, until the board received a full set of plans and was seconded by Peter DeTerra.

Before the vote could be taken, a member of the audience posed a question as to the lot coverage of the proposed additions, but Mr. Carr explained that the question could not be answered without a full set of plans.

Ms. Santoro requested to speak before the vote. She explained that she had the property surveyed during the process of building her house and she had submitted a basic plot plan with the proposed additions marked out. She asked if she could receive the Variance for the garage's location before commissioning more detailed plans. Mr. DeTerra explained that there was already a motion on the table to request the more detailed plans before any Variance or Special Permit could be granted.

Proceeding with the vote, the motion passed unanimously via voice vote by Peter DeTerra, Kenneth Kendall, Ruy daSilva, Daryl Manchester, and Patrick Carr (5-0).

After the vote had passed, Ms. Santoro asked for further clarification on lot coverage and what would be needed for the plans. Mr. DeTerra insisted that she meet with the building inspector for further guidance and feedback.

3. **REF#: ZBA-023-010: 33 Whisper Lane, Map 42A, Lot 196.** Applicant and owner: Jose E. Pinda. Applicant seeks a Special Permit for a Home Occupation business to operate a Painting business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades.

Mr. Jose Pinda explained that he was seeking a Special Permit for his Painting business, First Choice Painting, to use his home address. Both Mr. DeTerra and Mr. Manchester explained to Mr. Pinda that he would need to comply with the list of conditions he was given at the time of submitting his application. Mr. Pinda assured that he would not be keeping supplies or equipment in the house, with those being stored in the two trucks used by his business, one of which would be parked on the property. He sought the Special Permit purely to use his home address for business-related paperwork.

Kenneth Kendall made a motion to approve a Special Permit for a Home Occupation business to operate a Painting business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Patrick Carr in favor (5-0).

4. **REF#: ZBA-023-015: 60 Hacker Street, Map 28A, Lot 103.** Applicant: Jeremiah A. Katz Owner: James N. Souza. Applicant seeks a 3 ft. 10 in. Variance to build a 26 ft. x 26 ft. garage where the planned 23 ft. 10 in. height of the garage will exceed the maximum 20 ft. allowed for an accessory building, pursuant to Fairhaven Zoning Bylaw 198-22, Accessory Buildings and Use A. (2).

Mr. James Souza explained that he had submitted fully surveyed and engineered plans, with all setbacks and lot coverage in compliance with the zoning regulations, and he only needed the Variance for the height of the garage. The garage would be for personal use to store his sports cars instead of having them stored elsewhere for a \$650 a month fee. He saw this addition as

one that would not only save him money in the long run but also would increase the value of his property.

Pat Bria, Robert Conlon, and Kimberly Midura spoke against the petition.

Wayne and Jean Sewall of 62 Hacker Street spoke in favor.

When the board asked about the reason behind the Variance, Mr. Souza explained that when drafting the plans, they made an error thinking that the maximum height allowed was 25 feet instead of 20 feet. He would like the garage built with the extra space in order to include a storage loft. He emphasized that this garage would be exclusively for personal use and the existing garage on the property would continue to be used for his business.

When asked about the bathroom indicated on the plans, Mr. Souza assured that it was not to be used as a living space and that the bathroom was there purely for convenience and handwashing.

Mr. Carr asked those who spoke against the petition if they had any issues specifically with the height of the garage, as that was the reason for the requested Variance. Both Ms. Bria and Ms. Midura took issue with the addition of a second garage on a residential property given its size, the need for an additional driveway, the amount of lot coverage, and that it could still be used for business purposes. Mr. Bassett explained that the plans were in compliance with all other zoning by-laws save for the height of the garage and that if further issues arose, complaints could be brought to him for zoning enforcement.

Mr. DeSousa asked for confirmation that this would be the second accessory building on the property and the site plans were shared via Zoom. He then asked if another Variance would be required to have a second accessory building on the property, with Mr. DeTerra explaining that the by-laws allowed for more than one accessory building on a property.

Patrick Carr made a motion to approve a 3 ft. 10 in. Variance to build a 26 ft. x 26 ft. garage where the planned 23 ft. 10 in. height of the garage will exceed the maximum 20 ft. allowed for an accessory building, pursuant to Fairhaven Zoning Bylaw 198-22, Accessory Buildings and Use A. (2) and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Patrick Carr in favor (5-0).

5. **REF#: ZBA-023-016: 152 Adams Street, Map 16, Lot 95.** Applicant and owner: Elizabeth A. Wilding. Applicant seeks a Variance to replace an existing 14 ft. x 12 ft. deck with a 14 ft. x 16 ft. year-round craft room, set 15.2' from the side setback, pursuant to Fairhaven Zoning Bylaw 198-21 Nonconforming Uses.

Ms. Wilding confirmed that she would be replacing her current deck with a craft room. She submitted both a surveyed site plan and a set of full architectural plans for the new craft room

to the board. She assured that the craft room addition would not encroach any further on her neighbor's property than her current deck.

Keith Ruggiero spoke in favor.

Kenneth Kendall made a motion to approve a Variance to replace an existing 14 ft. x 12 ft. deck with a 14 ft. x 16 ft. year-round craft room, set 15.2' from the side setback, pursuant to Fairhaven Zoning Bylaw 198-21 Nonconforming Uses and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Jamie DeSousa in favor (5-0).

- 6. REF#: ZBA-023-017: 129 Alden Road, Map 36, Lot 14B.** Applicant: Robert Gardner. Owner: 129 Alden Road, LLC. Applicant seeks a 44 ft. Variance to build a 50 ft. x 100 ft. warehouse 5.8 ft. from the rear setback as compared to the minimum 50 ft. rear setback, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule.

Robert Gardner explained that the proposed warehouse would be used for storing products, mainly to protect the products from the elements and to keep them safe. This would help to streamline production at Brownell Trailers LLC, the business he runs at 129 Alden Road.

Mr. Carr asked if the property was near any wetlands and if the setback was all that was being requested, both of which Mr. Gardner confirmed. Given how close the building would be to the property line, Mr. Carr also asked about the abutting property at 10 Pequod Road. Mr. Gardner explained that there was an undeveloped wooded area and a dirt parking lot between the back of his lot and the Upper Deck Warehouse, which sits towards the eastern edge of 10 Pequod Road.

Mr. Carr asked about drainage for the warehouse and if it would include any bathrooms, with Mr. Gardner answering that the warehouse drainage would be up to code, and no bathrooms would be inside. Mr. Gardner also explained to Mr. Carr that no sandblasting would take place in the new warehouse.

Patrick Carr made a motion to approve a 44 ft. Variance to build a 50 ft. x 100 ft. warehouse 5.8 ft. from the rear setback as compared to the minimum 50 ft. rear setback, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule and was seconded by Kenneth Kendall. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Patrick Carr in favor (5-0).

- 7. REF#: ZBA-023-018: 6 Prince Street, Map 30C, Lot 29.** Applicant and owner: James W. Buckles Jr. Applicant seeks a Special Permit for a Home Occupation business to operate an Electrician business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades.

James W. Buckles Jr. spoke the board to confirm that he was seeking a Special Permit to

operate his electrician business. He understood the conditions of Zoning Bylaw 198-23 and promised that all materials would be stored either in his truck or at the job site and he would only be adding a small sign to his yard.

Kelly Buckles spoke in favor.

Kenneth Kendall made a motion to approve a Special Permit for a Home Occupation business to operate a Painting business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Jamie DeSousa in favor (5-0).

8. **REF#: ZBA-023-019: 184 Balsam Street, Map 43B, Lot 41.** Applicants and owners: Robert J. and Caryn M. Sullivan. Applicants seek a Variance to build a 22 ft. x 23 ft. deck 15 ft. from the side setback as compared to the minimum 20 ft. side setback, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule.

Michael Koska, the engineer of this project, spoke on behalf of the applicants. He detailed how the deck would be attached to the west side of the house and built to connect with the existing deck, with 10-foot-wide stairs along the southern side of the deck. He also explained that as compared to the house, which is set back 11 feet from the north property line, the deck would step-in 2.7 feet to have it be 15 feet from the property line. As such, they still required a Variance as compared to the minimum 20 ft. side setback.

Mr. Carr asked about the lot coverage given the size of the proposed deck and Mr. DeTerra and Mr. Bassett explained that it was not an issue in this case.

Mr. Koska informed the board that this project's Notice of Intent had been approved by the Conservation Commission and the applicant would comply with the Order of Conditions put forth by that Commission.

Kenneth Kendall made a motion to approve a Variance to build a 22 ft. x 23 ft. deck 15 ft. from the side setback as compared to the minimum 20 ft. side setback, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote with Kenneth Kendall, Ruy daSilva, Daryl Manchester, Peg Cook, and Patrick Carr in favor (5-0).

9. **REF#: ZBA-023-020: 37 Brae Road, Map 28B, Lot 57.** Applicant: Alexander Lee Cummings. Owner: Bridget K. Hoyer. Applicant seeks a Special Permit to authorize housing chickens on the property in an RA district, not to exceed 12 chickens and not to include any roosters, pursuant to Fairhaven Zoning Bylaw 198-16, Use Regulation Schedule.

Alexander Lee Cummings spoke to the board, explaining that he planned to only keep six

chickens on the property with no roosters and all food and bedding would be kept inside. He also presented the board with signatures of approval from three of his closest abutting neighbors: Robin Bodeau of 26 Hacker Street, Robert Ferreira of 10 Casco Street, and Carol Gottschalk of 35 Brae Road.

Richard Pires spoke against the petition, citing his concerns with the odor of the chickens and their presence attracting rats and foxes. He noted that the coop as it stands was fairly small and would require regular cleaning.

Roger and Evelyn Richard also spoke against the petition, citing similar concerns along with worries of their son with special needs encountering any wild animals attracted by the presence of chickens. Mr. Richard emphasized his issues with the smell of the chickens and the presence of rodents.

Bridget K. Hoyer, owner of the property, spoke in favor.

Mr. Cummings addressed the concerns by promising that all chicken feed would be kept inside, and the chickens would be always kept in their coop. The coop itself would be protected by two layers of chicken wire to help deter predators. The coop is also rated for 12 chickens, and he planned to have no more than six and their bedding would be raised off the ground. The coop is designed to be easy to clean with trays for the bedding that could be easily emptied into his compost. He did acknowledge that, given that the property sits on the edge of a wooded conservation area, there were already occasionally foxes, possums, and deer in the area.

Mr. Manchester asked about the location of the abutters who signed in approval of the petition and Mr. Cummings produced a map for the board showing their location relative to 37 Brae Road. These were all abutters directly across the street from the property and he noted that the back and side abutting properties were both empty and undeveloped.

Mr. daSilva read a letter sent to the board from Carol Roderick of 23 Jameson Street, stating her opposition to chickens at 37 Brae Road, with several pages on the health and security issues around housing chickens attached.

Mr. Carr asked why Mr. Cummings wanted to keep chickens, and he answered it would be for the daily fresh eggs and for the extra compost. When asked about adding a fence on the property near the coop, Mr. Cummings considered building one nearby it.

Mr. Carr asked of the location of the neighbors who spoke in opposition. Richard Pires resides at 30 Brae Road, across the street and two houses to the northeast of 37 Brae Road and Roger and Evelyn Richard reside at 25 Jameson Street, across a paper street and two houses to the northwest. Even though they are not direct abutters to the property, they still had concerns of

being affected by the smell of the chickens and concerned about predators being attracted to the neighborhood.

Mr. Cummings was amenable to working with his neighbors to reduce the presence of the chickens, such as adding a plywood fence around their coop. He explained that part of the reason why he considered adding a coop to be acceptable was the lack of direct abutters to the property. Mr. Pires also brought up his concerns with more neighbors requesting chickens of their own in the future.

Kenneth Kendall made a motion to approve a Special Permit to authorize housing chickens on the property in an RA district, not to exceed 12 chickens and not to include any roosters, pursuant to Fairhaven Zoning Bylaw 198-16, Use Regulation Schedule and was seconded by Ruy daSilva. The motion passed via roll call vote with Ruy daSilva, Daryl Manchester, Peg Cook, and Jamie DeSousa in favor and Kenneth Kendall opposed (4-1).

Kenneth Kendall made a motion to adjourn at 6:47 PM and was seconded by Ruy daSilva; all were in favor.

Respectfully Submitted,

Stephanie A. Fidalgo  
Recording Secretary  
Board of Appeals